

Application No. : 10/785,573
Amdt. Dated : December 21, 2006
Reply To O.A. Of : October 3, 2006

Summary Of Interview

Participants

Examiner Winakur

John M. Grover (Registration No. 42,610)

Identification of Claims Discussed

Claims 1, 4, 8, and the subject matter of new Claims 13 – 20

Identification of Prior Art Discussed

EP 0 872 210 B1 to Michael Kaluza

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REMARKS

The Applicant thanks the Examiner for his careful and thoughtful examination of the present application. By way of summary, Claims 1-12 were pending in this application. In the present amendment, the Applicant canceled Claim 4 without prejudice or disclaimer, amended Claim 1, amended Claim 5 to correct a dependency, and added new Claims 13 – 20. Accordingly, Claims 1 – 3 and 5 – 20 remain pending for consideration.

The Applicant also thanks Examiner Winakur for the interview extended to the Applicant's counsel of record, John M. Grover, on December 21, 2006. During the interview, the Applicant clarified patentably distinguishing features of the invention and an agreement was reached relating to claim language. Accordingly, the Applicant amended Claim 1 along the lines discussed in the interview. Therefore, the Applicant respectfully requests reconsideration of the pending amended claims.

Rejection Of Claims 1 – 3 For Obviousness-Type Double Patenting

The Office Action rejected Claims 1 – 3 under the non-statutory, obviousness-type double patenting. The Applicant submits that amended Claim 1 recites, among other things, the varying of emitter duty cycles to control power consumption. In contrast, Claims 8 and 10 of the parent patent (USP No. 6,697,658) do not reference duty cycles. Accordingly, the Applicant respectfully requests withdrawal of the non-statutory, obviousness-type double patenting rejection of the claims.

Rejection Of Claims 1 – 4, 6 and 8 – 11 Under 35 U.S.C. § 102(b)

The Office Action rejected Claims 1 – 4, 6 and 8 – 11 under 35 U.S.C. § 102(b) as being anticipated by E.P. patent no. 0 872 210 B1, issued to Michael Kaluza, (the Kaluza patent). The Applicant respectfully traverses this rejection because the Kaluza patent fails to identically teach every element of the claim. See M.P.E.P. § 2131 (stating that in order to anticipate a claim, a prior art reference must identically teach every element of the claim).

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As discussed in the interview, the Kaluza patent fails to teach or suggest varying a duty cycle to control or manage power consumption. Thus, the Applicant submits that the Kaluza patent fails to teach every element of independent Claims 1 and 8. Accordingly, independent Claims 1 and 8 are patentable over the Kaluza patent. Moreover, dependent Claims 2 – 3, 6 and 9 – 11 are patentable for the same reasons discussed above with respect to independent Claims 1 and 8, and because of the additional features recited therein.

Rejection Of Claims 5, 7 and 12 Under 35 U.S.C. § 103

The Office Action rejected Claims 5, 7 and 12 under 35 U.S.C. § 103 as being unpatentable over the Kaluza patent. As discussed in the foregoing, the Kaluza patent fails to teach or suggest the elements of independent Claims 1 and 8. Thus, dependent Claims 5, 7 and 8 are patentable for the same reasons discussed above with respect to independent Claims 1 and 8, and because of the additional features recited therein.

New Claims

New dependent Claims 13 – 20 have been added to more fully define the Applicant's invention and are believed to be fully distinguished over the prior art of record.

Request For Telephone Interview

In view of the foregoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested. If further issues remain to be resolved, the Applicant's undersigned attorney of record hereby formally requests a telephone interview with the Examiner. The Applicant's attorney can be reached at (949) 721-2946 or at the number listed below.

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In addition, please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: December 21, 2006

By: 

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